THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.16446 OF 2007

ORAL ORDER:

The petitioner herein claims to be in possession and enjoyment of Ac.4.50 cents of land situated in R.S.No.56/5 of Obalanka village belonging to the 3rd respondent-Temple. It is stated that the said land along with another extent of Ac.3.22 cents situated in R.S.No.16/5 was leased out to her father, by name K. Subbi Reddy in the year 1973-74. Petitioner's father expired on 28.6.1985, and being the only daughter, she continued in possession and enjoyment of the said land by paying the lease amount. That apart, by proceedings dated 30.5.1989, the 2nd respondent-Assistant Commissioner has approved the lease in favour of the petitioner for a period of three years from 1989-90 to 1991-92. While so, in terms of the provisions of the A.P. Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Lands Rules, 2003 (for short "the Rules") made under G.O.Ms.No.379, Revenue (Endowments.I), dated 11.3.2003, the 2nd respondent initiated enquiry for determination of the status of the petitioner and passed an order dated 30.1.2007 holding that the petitioner is not a landless poor person as defined under Section 82 (2) of A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short "the Act"). Aggrieved by the same, the petitioner has preferred an Appeal under Rule 4 of the Rules before the 1st respondent-Regional Joint Commissioner. The said Appeal was dismissed by order dated 23.5.2007, confirming the finding recorded by the 2nd respondent that the petitioner is not a landless poor person. Hence, this writ petition seeking a *writ of certiorari* to call for records relating to the order of the 1st respondent dated 23.5.2007 confirming the order passed by the 2nd respondent dated 30.1.2007, and to quash the same.

It is contended by the learned counsel for the petitioner that though the petitioner's father was granted a lease in respect of a total extent of Ac.7.72 cents of dry land, the cultivable land available was only Ac.4.50 cents situated in Sy.No.56/5. The land situated in Sy.No.16/5 to an extent of Ac.3.22 cents, which is covered by sand and located in the middle of the river Godavari, is unfit for cultivation as certified by Mandal Revenue Officer, Ravulapalem. Thus, it is contended that since the petitioner is holding only an extent of Ac.4.50 cents of dry land, she is a landless poor person, and as such entitled to purchase the land for a consideration of 75% of the prevailing market value, which can be paid in four equal instalments. It is vehemently contended by the learned counsel for the petitioner that both the respondents 1 and 2 failed to take into consideration the fact that the cultivable land available is only Ac.4.50 cents situated in Sy.No.56/5.

At the outset, it is to be noted that admittedly, the petitioner's father who was the original lessee expired on 28.6.1985. It is also not in dispute that the petitioner's father was granted a lease for a total extent of Ac.7.72 cents. It is also relevant to note that after the death of her father, the petitioner was granted a fresh lease by the Executive Officer of the 3rd respondent-Temple for a period of three years from 1989-90 to 1991-92 and the same was subsequently approved by the Commissioner of Endowments by proceedings dated 30.5.1989. Even in the said proceedings, the extent of the land leased out to the petitioner was shown as Ac.7.72 cents situated in Sy.Nos.56/5 and 16/5.

It is not in dispute that by virtue of the Rules made in G.O.Ms.No.379 dated 11.3.2003, it is necessary to make an enquiry and decide whether the cultivating tenant is a landless poor person as defined under Section 82 (2) of the Act. Such enquiry was conducted by the 2nd respondent and an order was passed on 30.1.2007 holding that the petitioner was not a landless poor person since the petitioner was cultivating more than the statutory limit of

Ac.5.00 cents of dry land and that the lease was not existing prior to six years from the date of commencement of the Act. The plea of the petitioner that out of the total extent of Ac.7.72 cents leased out to her, she is in possession of only Ac.4.50 cents and the rest of the land is not cultivable, was disbelieved by the 1st respondent. At any rate, since the petitioner has not satisfied the other requirement of being in possession of the land in question for six years continuously prior to the commencement of the Act, as rightly held by the 2nd respondent, she is not entitled to the benefit of sub-section (2) of Section 82 of the Act.

Hence, the orders of the respondents 1 and 2 do not suffer from any infirmity.

The writ petition is devoid of any merit and the same is accordingly dismissed. No costs.

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(G. ROHINI, J.)

3rd August, 2007.
Kgr

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.16446 OF 2007

3rd August, 2007.

Between:

Smt. Satti Laxmi Surya Kantham. .. Petitioner.

And

The Regional Joint Commissioner,
Multi Zone-I, Endowment Department,
Kakinada, East Godavari District and others. ..
Respondents.